

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE
DISTRICT OF PUERTO RICO**

IN RE:
ERIC DOEL TIRADO DASTAS,

Debtor.

)
)
)
) Bk. No. 04-00370 (GAC)
Chapter 13

**UNITED STATES' RESPONSE TO DEBTOR'S OBJECTION TO
PROOF OF CLAIM FILED BY THE INTERNAL REVENUE SERVICE**

The United States of America, through its undersigned counsel, responds to debtor's objection to claim as follows:

The Internal Revenue Service ("Service") timely filed a proof of claim on dated April 23, 2004 in the total amount of \$2,201.86, of which \$1,829.99 is a priority unsecured claim and \$371.87 is a nonpriority unsecured claim. The priority claim arises from the debtor's federal income tax liability for tax years 2000, 2001, and 2003. The debtor objects to the priority portion of the claim, asserting that the claim for tax year 2000 is not a priority claim in that it reflected "taxes for a period over three years before the filing of the petition."

Section 507(a)(8)(A)(i) of the Bankruptcy Code (11 U.S.C.) provides that priority status attaches to a tax measured on income "for a taxable year ending on or before the date of the filing of the petition for which a return, if required, is last due, including extensions, after three years before the date of the filing of the petition . . ." (emphasis added). The due date of the debtor's 2000 federal income tax return was April 15, 2001. The petition date in this case is January 20, 2004, which is less than three years after the April 15, 2001 due date for the 2000 return. Thus, the claim for 2000 federal income taxes was properly listed as a priority claim. Other elements of the priority claim are 2001 and 2003 federal income taxes, which were also properly listed as a priority claim.

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FOR THE DISTRICT OF
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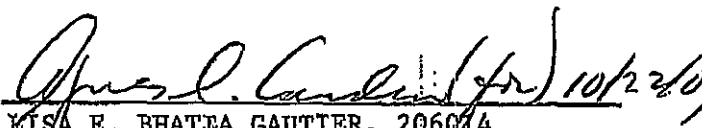
CONCLUSION

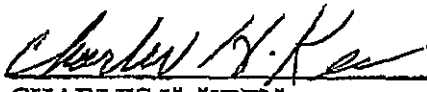
WHEREFORE, the United States prays that the debtor's objection be overruled.

DATED: October 22, 2004.

Respectfully submitted,

H.S. GARCIA
United States Attorney


LISA E. BHATEA GAUTIER, 206014
Assistant United States Attorney
District of Puerto Rico
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CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that service of the foregoing UNITED STATES' RESPONSE TO DEBTOR'S OBJECTION TO PROOF OF CLAIM FILED BY THE INTERNAL REVENUE SERVICE and proposed ORDER has been made on October 22, 2004, by mailing a copy thereof, postage prepaid, addressed to the following:

Rafael Torres Alicea, Esq.
Attorney for Debtor
Town Park, E-2 Santiam
San Juan, Puerto Rico 00924

and

Jose Ramon Carrion Morales
Chapter 13 Trustee
P.O. Box 9023884
San Juan, Puerto Rico 00902-3884.


CHARLES H. KEEN

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|--------------------------|---|------------------------|
| IN RE: |) | |
| ERIC DOEL TIRADO DASTAS, |) | Bk. No. 04-00370 (GAC) |
| |) | |
| Debtor. |) | Chapter 13 |

ORDER

HAVING considered debtor's Objection to Proof of Claim Filed by the Internal Revenue Service and the United States' response, it is

ORDERED that debtor's objection is hereby OVERRULED; and it is further

ORDERED that the Clerk shall distribute conformed copies of this Order to the parties listed below.

DONE this _____ day of _____, 2004.

UNITED STATES BANKRUPTCY JUDGE

Copies to:

Eric Doel Tirado Dastas, Debtor

Rafael Torres Alicea, Attorney for Debtor

Jose Ramon Carrion Morales, Chapter 13 Trustee

Charles H. Keen, Trial Attorney, U.S. Department of Justice, Tax Division

H.S. García, United States Attorney, District of Puerto Rico